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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Suit No. 3279 of 1987

Shri Anant Narayan Kajrolkar .. Plaintiff

v/s.

Shri Madhukar Narayan Kajrolkar ..Defendant

Mr.R.S.Colabawalla i/b. M/s. Modekar & Co. for the Plaintiff.
Mr.Y.V.Divekar i/b. Divekar & Co. for the Defendant Nos.1B & 1C
Mr.G.B.Nagarsekar & Rubia Tanoja for the Defendant Nos.1 and 2
Mr.Satyendrakumar for one of the bidder
Mr.Y.V.Pal, Section Officer from Execution Department

CORAM : R.Y.GANOO, J.
DATED : 24th November , 2010

P.C. :

1. The Officer from the Execution Department, Mr. Pal is present. He has in his custody 10 sealed packets received pursuant to news paper advertisement calling bids. Mr. Pal is directed to open the envelopes, prepare the statement showing the name of the bidder, the amount of bid and if bidder belongs to particular caste and if the caste is mentioned in the bid, particulars of the said caste. He shall prepare the said statement and come back to the court at 1.00 p.m. so that

further and appropriate order can be passed on the said bid.

[R.Y.GANOO, J.]

Again called out at 1.00 p.m.

2. Mr.Pal has tendered report as regards opening of sealed envelope and preparing report as regards highest bidder. Representative of AVN Infrastructure, Nagpal Developer and Ashish B. Mohite who have respectively placed the bid are present. Swati Kajrolkar and Priti Kajrolkar, who are party to the suit are represented by advocate. Swati Kajrolkar and Priti Kajrolkar are defendant Nos.1(b) and 1(c). They jointly have one half share in regard to the suit plot and the plaintiff Anant Kajrolkar has one half share. Swati Kajrolkar and Priti Kajrolkar have mentioned the figure of Rs.4 Crores . Learned Counsel, Mr. Divekar upon instructions from Ms. Swati Kajrolkar and Priti Kajrolkar states that his client had mentioned the figure of Rs.4 Crores in the bid, taking into consideration that in the entire suit property they have one half share and they will be putting bid offering to purchase share of Anant Kajrolkar.

3. Learned Counsel Mr. Divekar submitted that if his clients are

accepted as highest bidder, the entire amount of Rs.4 Crores will have to be given to the plaintiff Anant Kajrolkar. Looking to this clarification as regards mentioning of figure of 4 Crores as against figures of AVN Infrastructure of Rs.7,50,00,000/-, the bid of Swati Kajrolkar and Aarti Kajrolkar turns out to be highest bid. Learned Advocate Mr. Nagarshekar has appeared on behalf of the defendant no.2. He has tendered an affidavit and has clarified that as per the terms and conditions on which the society was granted registration, 90% of the members should be from backward class and 10% from the general category. Upon instructions, he makes a statement that there is no vacancy in the general class and therefore if at all the suit property is to be sold, it can be sold to a person who belongs to reserved class, as mentioned in his affidavit. This will mean that a person who is to be treated as highest bidder should belong to the reserved class.

4. Looking to the statement made by Mr. Divekar on behalf of Swati Kajrolkar and Priti Kajrolkar and the fact that they belong to reserve class (which fact is admitted by the plaintiff, as also advocate for the Co-operative Society, defendant no.2.). Swati Kajrolkar and Priti

Kajrolkar are treated as highest bidder. Learned Advocate appearing on behalf of defendant no.2 informs the court that Defendant No.2 will have no objection if the entire suit property and the membership therein is transferred to Swati Kajrolkar and Priti Kajrolkar. Defendant no.2 shall consent for transfer of the membership and the transfer of the suit property in their favour. He informs the court that approval of Social Welfare Department, Pune, a body of the Government of Maharashtra is required on account of various conditions put in at the time of formation of the society and grant of land to the society.

5. In view of this, learned Counsel for the plaintiff as well as Counsel for the defendant nos.1(b) and 1(c) pray for some time to finalize the transaction and in particular obtaining permission from Director of Social Welfare Department, Pune.

6. Learned Counsel Mr. Satyendra Kumar appearing on behalf of Ashish Mohite, one of the bidder states that if arrangement between plaintiff and Swati Kajrolkar and Priti kajrolkar does not turn out to be successful then his claim shall be treated as 2nd highest bidder as

he belongs to reserved class. At this stage, learned Advocate Mr.Satyendra Kumar produced a true copy of the caste certificate issued by the Executive Magistrate, Andheri, Bombay. Said Officer has certified said Mr.Mohite belongs to Hindu Mahar Caste. Learned Advocate appearing on behalf of defendant no.2 states that Mr.Mohite can be treated as person belonging to reserved class. The said certificate is taken on record. Accordingly, Mr. Mohite be treated as 2nd highest bidder. Accordingly, if arrangement between plaintiff and defendant nos.1(b) and 1(c) does not materialize, the Court shall consider the claim of Ashish B. Mohite, who has put in bid for 7 crores.

7. By consent adjourned to 1.12.2010. To be shown in the column of directions.

(R.Y.Ganoo, J.)